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Advancement of women

Letter dated 23 September 2002 from the Permanent Representative of Venezuela to the United Nations addressed to the Secretary-General

I have the honour to refer to the report entitled "Working towards the elimination of crimes against women committed in the name of honour" (A/57/169).

On instructions from my Government, I wish to make certain clarifications with regard to paragraph 26 of the report, according to which Venezuela is among those countries whose penal codes allow for partial or complete defence in cases in which it is alleged that a crime was committed in defence of honour.

On this point, I wish to point out that article 423 of the Venezuelan Penal Code does indeed provide as follows:

> "A husband who surprises his wife and her accomplice in the act of adultery and kills, wounds or assaults one or both of them shall not be liable to the common penalties for murder or causing injury.
>
> "In such cases, the penalties for murder or causing injury shall be reduced to a term of imprisonment of no more than three years or less than six months.
>
> "The same reduction in penalty shall apply to murders or injury committed or caused by parents or grandparents in their own homes against men whom they surprise in a carnal act with their unmarried daughters or granddaughters."

However, this article was repealed by decision of the Supreme Court of Justice on 5 March 1980, on the grounds that the article created a distinction between men and women that violated the principles of non-discrimination and equality enshrined in article 61 of the 1961 Constitution of Venezuela, which was still valid at the time.

Furthermore, the nullity of the above-mentioned article was also grounded on the argument that the equality of persons of either sex before the law constitutes a right for there to be no exceptions or privileges that exclude a person of a given sex from some benefit granted to the other sex in similar circumstances. In other words, a right for there to be no discrimination based on sex between persons in the same

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conditions. The distinction with regard to the special reduction in the sentence meted out to a husband who kills his adulterous wife — a reduction denied to a woman who might find herself in the same situation by surprising her husband in the act of adultery — was considered by the Court to be a clear case of discrimination against the woman based on sex and, as such, unconstitutional, since it violated article 61 of the Constitution which, as was mentioned before, set forth the principle of non-discrimination based on race, sex, belief or social status.

I should also like to point out that since 1999, the Bolivarian Republic of Venezuela has had a new Constitution, article 21 of which sets forth the principles to which I have just referred.

I should be grateful if you would arrange to have this letter circulated as an official document of the General Assembly under agenda item 102.

(*Signed*) Milos **Alcalay**
Ambassador
Permanent Representative